



EMPLOYMENT TRIBUNALS

Claimant: Mrs A Longworth

Respondents: R1: Leybourne Fisheries Birtley Ltd
R2: Krishna (Birtley) Limited

HELD AT: Newcastle (in person) **ON:** 16th May 2025
BEFORE: Employment Judge Booth

REPRESENTATION:

Claimant: In person

Respondent: R1: No representation – no response submitted, did not attend.
R2: No representation – did not attend.

PRE-AMBLE

1. R1 did not present a response to the claim and did not attend the hearing. The Tribunal is satisfied that a notice of claim and notice of hearing were sent to the respondent at the registered office address applicable at the date of sending.
2. R2 did present a response to the claim, which was limited to a repeated statement that the claimant never worked for R2. R2 did not attend the hearing. The Tribunal is satisfied that the Case Management Orders of 29.01.2025 including the hearing date, and the Tribunals' letter of 06.05.2025 regards the hearing were sent to the parties including R2, and that reasonable efforts were made to contact R2 on the morning of the hearing.
3. The Tribunal considered that, if the hearing was postponed, R1 and R2 would be unlikely to attend.

4. The Tribunal applied rule 47 and, having had regard to all of the information available to it, the Tribunal decided to proceed with the hearing in the absence of both R1 and R2.

JUDGMENT

The judgment of the Tribunal is as follows:

5. The claimant was employed by R1 within the meaning of section 230 of the Employment Rights Act 1996 (“**ERA**”) to work at Leybourne Fisheries at 2 Leybourne Hold (“**Leybourne Fisheries**”).
6. Leybourne Fisheries is an “economic entity” for the purposes of regulation 3(1)(a) and 3(2) of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“**TUPE**”).
7. On 3rd July 2024 (“**the transfer date**”), while the claimant was on holiday, Leybourne Fisheries transferred from R1 to R2. Following the transfer, Leybourne Fisheries retained its identity and continued trading as it had before the transfer, with the exception of a two week closure for refurbishment which commenced on 13th July 2024 (after the transfer date).
8. The transfer of Leybourne Fisheries is a relevant transfer for the purposes of regulation 3 of TUPE. Note: if the timeline set out paragraph 7 is incorrect and the transfer date fell within the period of closure for refurbishment, the Tribunal concludes that such temporary cessation of trade is not sufficient to prevent the transfer of Leybourne Fisheries falling within the scope of regulation 3 of TUPE (Landsorganisationen i Danmark v Ny Molle Kro (C287/86) considered).
9. The claimant’s employment transferred from R1 to R2 on the transfer date under regulation 4 of TUPE.
10. The claimant was dismissed with effect from 14.07.2024 by reason of the transfer of Leybourne Fisheries from R1 to R2.
11. The complaint of unfair dismissal is well-founded. The claimant was automatically unfairly dismissed by R2 under regulation 7 of TUPE.
12. R2 shall pay the claimant the following sums:
 - (a) A basic award of £2,471.04.
 - (b) A compensatory award of £308.88 being one weeks’ gross pay, for the period 15.07.2024 to 21.07.2024 inclusive. The claimant is responsible for the payment of any tax or National Insurance on this compensatory award.
13. When the proceedings were begun both R1 and R2 were in breach of the duty to provide the claimant with a written statement of employment particulars. It is just and equitable to make an award of an amount equal to four weeks’ gross

pay. In accordance with section 38 Employment Act 2002 the respondent shall therefore pay the claimant £1,235.52.

14. The total sum R2 is therefore ordered to pay to the claimant is therefore **£4,015.44**. Such sum is payable gross, within 14 days of the date on which this judgment is sent to the parties.

Employment Judge Booth

Date 16th May 2025

Note

Reasons for the judgment were given orally at the hearing. Written reasons will not be provided unless a party asked for them at the hearing or a party makes a written request within 14 days of the sending of this written record of the decision.

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